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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,922	04/14/2006	Karsten Gerving	20798/0204630-US0	5289
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DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			EXAMINER FISHMAN, MARINA	
			ART UNIT 2832	PAPER NUMBER
			MAIL DATE 01/07/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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**Office Action Summary**

Application No.

10/575,922

Applicant(s)

GERVING, KARSTEN

Examiner

Marina Fishman

Art Unit

2832

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 November 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 is/are allowed.
- 6) ☒ Claim(s) 5, 6, 8 and 9 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***General status***

1. This is a First Action on the Merits for RCE. Claims 5 - 10 are pending in the case and are being examined.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5 – 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5, it is not clear what is meant by “wherein the guide and retaining elements include stack guide and retaining elements configured to guide and retain the arc splitter stack and plate guide and retaining elements configured to guide and retain the cooling plate.”

Claim 9, it is not clear what is meant by “the housing guide and retaining elements and the cover guide and retaining elements being configured to retain the arc quenching device and including both cooling plate guide and retaining elements configured to guide and retain the cooling plate and arc splitter stack retaining elements configured to guide and retain the arc splitter stack.” (Proper punctuation needed.)

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 5 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Uchida et al. [US 5,589,672].

Uchida et al. disclose an electrical switching device comprising:

- a housing [12] having interrupting chambers [Figure 20];
- a cover [not numbered] capable of closing the housing; and
- externally accessible terminal [4] contacts being secured in position in the housing;
- each interrupting chamber having disposed therein an arc quenching device [2, 14] and a stationary switching contact [ 7] for a cooperating movable switching contact [1];
- the housing and the cover having formed therein guide and retaining elements [Figure 20] configured to retain the arc quenching devices, wherein the arc quenching device is alternatively, one of arc splitter stack [2] and cooling plate [22], the arc splitter stack being interchangeable with the cooling plate [the disclosed circuit breaker can function with cooling plate 22 and/or with splitter plates 2], wherein the guide and retaining elements [15] include stack guide and retaining elements configured to guide and retain cooling plate [22, Figure 14].

It is noted that the phrase "the arc splitter stack being interchangeable with the cooling plate" is interpreted to mean – the arc splitter stack can alternatively be used in place of cooling plate--.

6. Claims 5, 6, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto [US 6,703,575].

Yamamoto discloses an electrical switching device comprising:

- a housing [6] having interrupting chambers [Figures 1, 5];
- a cover [20] capable of closing the housing; and
- externally accessible terminal [4] contacts being secured in position in the housing;
- each interrupting chamber having disposed therein at least one arc quenching device and a stationary switching contact [ 3] for a cooperating movable switching contact [1], the housing and the cover having formed therein guide and retaining elements [6a,20a,b] for both insertable cooling plates [7, plates next to the contacts ] and arc splitter plate [7, remaining plates] stacks defining the arc quenching devices, the arc splitter stacks being interchangeable with the cooling plates.

Regarding claim 6, Yamamoto discloses the guide and retaining elements [6a] include inner walls of the housing laterally bounding the interrupting chambers [Figures 1,2] and first retaining elements [20a,b] of the cover [20], the inner walls being configured to support outer legs of the arc quenching device, and the first retaining

elements configured to further holding down the arc quenching device [Column 6, lines 12 +]. Regarding Claim 8, Yamamoto discloses the guide and retaining elements includes arc splitter guide and retaining elements and cooling plate guide and retaining elements [Figure 3], the arc splitter guide and retaining elements being adjacent to the guide and cooling plate retaining elements in a direction of the terminal contacts.

***Allowable Subject Matter***

7. Claim 10 is allowed.
8. Claim 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

9. Applicant's arguments filed 11/26/2007 have been fully considered but they are not persuasive.

The Applicant has argued "neither Uchida et al. nor Yamamoto describes an electrical switching device that includes an arc quenching device that is either a cooling plate or arc splitter stack, wherein the cooling plate and arc splitter stacks are interchangeable, and in addition, two sets of separate guide and retaining elements, wherein one set is configured to guide and retain an arc splitter stack and the other set configured to guide and retain a cooling plate." The Examiner respectfully disagrees. As stated above, Uchida discloses an electrical switching device with arc quenching device as well as cooling plate and also guide and retaining elements for both. In the same

manner, Yamamoto discloses an electrical switching device with arc quenching device as well as cooling plate and also guide and retaining elements for both.

Applicant has also argued about use of insulative partition plate 22 as cooling plate.

The Claim does not specify the material for the cooling plate and therefore the insulative plate is capable of functioning as cooling plate. As to the arguments related to guiding and retaining elements, these are already shown in Figures 10 and 14.

Applicant has argued about Yamamoto reference and stated that Yamamoto does not describe separate sets of guide and retainer elements, with one set configured to guide and retain the cooling plate, and another set configured to guide and retain the arc splitter stack. Nor does Yamamoto's electrical switching device having an arc quenching device that is alternatively, one of an arc splitter stack and a cooling plate, wherein the two are interchangeable. The Examiner respectfully disagrees. The plates disclosed by Yamamoto are capable of functioning as arc quenching device and cooling device and because of the design, the plates are also interchangeable. As to the arguments related to guiding and retaining elements, Yamamoto in Figures 3 and 6, does disclose guiding and retaining elements.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Fishman whose telephone number is 571-272-1991. The examiner can normally be reached on 7-5 M-T.


Application/Control Number:  
10/575,922  
Art Unit: 2832

Page 7

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marina Fishman  
January 3, 2008

  
ELVIN ENAD  
SUPERVISORY PATENT EXAMINER  
04 JAN 08